

Attorney's Docket No. 038867/286192

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Bowran *et al.* Confirmation No.: 7230
Appl No.: 10/520,738 Group Art Unit: 1638
Filed: September 19, 2005 Examiner: Kruse, David H.
For: WHEAT PLANTS HAVING INCREASED RESISTANCE TO
 IMIDAZOLINONE HERBICIDES

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

This is in response to the Office Action mailed August 30, 2007, in which the Examiner has required restriction between Group I, namely Claims 1-21, Group II, namely Claims 22-27, Group III, namely Claims 28-43, Group IV, namely Claim 44, Group V, namely Claims 45-49, Group VI, namely Claims 50-54 and Group VII, namely Claims 55-57.

Upon review of the Office Action, Applicants' undersigned representative realized that restriction requirement does not take into account that the pending claims were amended in the Preliminary Amendment filed June 3, 2005. In this Preliminary Amendment, Applicants cancelled claims 2, 3, 9, 29, 30, 36, 39, 46, 48, 52, and 53, amended claims 1, 4, 5, 7, 8, 10, 20, 22, 28, 31, 32, 34, 35, 42, 44, 45, 50, 51, and 54-57, and added new claims 58-61. The Office Action, however, indicates that claims 1-57 are pending.

Applicants' undersigned representative contacted Examiner Kruse via telephone on November 14, 2007. A summary of this telephonic interview follows.

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Applicants' representative advised Examiner Kruse that the restriction requirement set forth in the Office Action mailed August 30, 2007 did not appear to take into account the Preliminary Amendment filed June 3, 2005. Applicants' representative requested clarification on how to proceed in response to the restriction requirement. Examiner Kruse stated that the claim groupings set forth in the Office Action remain the same and that the new claims (dependent claims 58-61) are assigned to the groups from which they ultimately depend. Thus, claims 58 and 59, which depend from independent claim 22, are assigned to Group II, and claims 60 and 61, which depend from independent claim 44, are assigned to Group IV.

Applicants hereby provisionally elect without traverse to prosecute the claims of Group II (Claims 22-27, 58, and 59) and expressly reserve the right to file divisional applications or take such other appropriate measures deemed necessary to protect the inventions in the remaining claims.

Applicants file concurrently herewith an Amendment to amend claim 22 to clarify further the subject matter of their claimed invention, to add additional claims that are directed to embodiments of the invention that lie with the subject matter of the elected group of claims, and to cancel the non-elected claims.

Should the Examiner have further questions or comments with respect to examination of this case, it is respectfully requested that the Examiner telephone the undersigned so that further examination of this application can be expedited.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those, which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

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Respectfully submitted,

/david m. saravitz/

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